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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/092,933

03/06/2002

John C. Karamanos

0003-029

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40972 7590 01/14/2008  
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EXAMINER

NORMAN, MARC E

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

01/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/092,933

**Applicant(s)**

KARAMANOS ET AL.

**Examiner**

Marc E. Norman

**Art Unit**

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,12-15,17,22,26-28,30-35,37-42,45-56 and 58-67 is/are pending in the application.
- 4a) Of the above claim(s) 61-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,12-15,17,22,26-28,30-35,37-42,45-56 and 58-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

In the previous Office Action, the Examiner indicated several claims as reciting allowable subject matter. However, upon further consideration, and also particularly in light of the recent Supreme Court KSR decision, the Examiner has determined that the rejections set forth in the earlier Office Action of 28 March 2006 should be reinstated and reapplied. In order to overcome those rejections, Applicant amended several independent claims to include the limitation "wherein the ventilation flow unit can be installed as a single unit." First, however, the metes and bounds of the term "unit" are very broad, and can be reasonably interpreted such that the whole of Figure 1 of Haessig is a "unit." Further, even if one takes a narrower interpretation of the term "unit," since the general function of the components do not change, it is taken as a simple matter involving predictable results to preassemble the components since the general concept of modularity is well known in the air conditioning and control system arts.

### ***Election/Restrictions***

Newly submitted claims 61-67 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: they present a combination of first, second, and third flow control units in a manner which is patentably distinct from the previously presented claims and would require different search and consideration

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution

on the merits. Accordingly, claims 61-67 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7-9, 12-15, 17 22, 26-27, 48-52, 55, 56, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haessig in view of admitted prior art. Haessig discloses the invention substantially as claimed. Haessig discloses a ventilation flow control unit having a flow controller 69, 63,63A mounted on a plenum, a flow sensor 80 and a thermal coil 55 fixed in the plenum. It is again taken to be admitted prior art that electrical disconnects such a plug and

sockets, switches or wire terminals, voltage transformers for reducing supply voltage, mounting brackets, sensor turbulence reduction, and automatic control valves on cooling coils to control cooling are conventional in the air conditioning art in view of applicant's lack of any contention that such devices are not conventional – and further in view of Applicant's amendments and arguments that the novelty of the invention lies the preassembly of the various components. As stated above, since the general function of the components do not change, it is taken as a matter of simple predictable results to preassemble the components since the general concept of modularity is well known in the air conditioning and control system arts.

Claims 1-2, 4-6, 28, 30-35, 37-42, 45-47, 53, 54, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haessig in view of admitted prior art as applied to claim 7 above, and further in view of Noboru. Noboru teaches the use of an isolation valve 7 on the inlet of a ventilation system as well as control valves on the exhaust and return lines. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Haessig such that it included the use of an isolation valve on the inlet of the ventilation system as well as control valves on the exhaust and return lines in view of the teachings of Noboru. Again, since the general function of the components do not change, it is taken as a matter of simple predictable results to preassemble the components since the general concept of modularity is well known in the air conditioning and control system arts.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MN

A handwritten signature in black ink, appearing to read 'M. Norman', with a stylized flourish at the end.

MARC NORMAN  
PRIMARY EXAMINER